

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

MARK MERRILL, SUSAN MERRILL,
COREY McCRACKIN, MATT
EMERICK, and ROB DEVLIN,

Plaintiffs,

VS.

CONSTRUCTION PARTNERS, INC. and
EVERETT DYKES GRASSING
COMPANY, INC.,

Defendants.

C/A No: 3:21-cv-03488-CMC

SUA SPONTE ORDER

More than forty-two days have passed since the date shown on the proof of service for Defendant Construction Partners, Inc., yet no answer has been filed and no appearance has been entered on behalf of this Defendant. The court has not granted an extension of time to answer and the maximum time which may be granted without court approval is 21 days. *See* Local Civil Rule 12.01, DSC. It, therefore, appears that this Defendant may be in default if the action has not been otherwise resolved.

No later than ten calendar days from the date of this order, Plaintiff shall advise the court whether the matter has been resolved as to this Defendant and, if not, how Plaintiff elects to proceed.¹ If Plaintiff intends to file a request for entry of default pursuant to Fed. R.

¹ If one or more Defendants (including Third-Party Defendants) are in default, Plaintiff(s) (including Third-Party Plaintiffs) should advise the court whether the matter is ripe for resolution as to the defaulted Defendant(s) and what is necessary for resolution of the relevant claim(s). If the matter is ripe for resolution, Plaintiff(s) should address: (1) whether all damages claimed are liquidated or the matter seeks only specified declaratory judgment (allowing resolution without further hearing or motion and, if there are no other Defendants, entry of judgment); (2) whether any claims for unliquidated damages are waived; (3) if unliquidated damages claims are not waived, how those claims should be resolved. If the matter is ripe for resolution and unliquidated damage claims remain, Plaintiff(s) should file a separate motion seeking resolution on written submissions under a summary judgment standard

Civ. P. 55, such request shall be filed by that same deadline. If Plaintiff fails to request entry of default or to take other action to advance this matter, the action shall be dismissed without prejudice for failure to prosecute as to this Defendant.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
SENIOR UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 3, 2022

or through an evidentiary hearing. Such separate motion should address: (1) the damages sought (categories and amounts); (2) the standards by which the damages should be measured; (3) whether the matter may be resolved on the written submissions (and, if so, attaching supporting evidence); (4) if a hearing may be necessary, the witnesses and evidence which will be presented and estimated hearing time; and (5) whether a jury demand has been made (in which event a jury trial as to unliquidated damages may be required). If a hearing or trial may be required and there are also non-defaulted Defendant(s), Plaintiff(s) should address whether the hearing/trial as to the defaulted Defendant should be deferred to allow for a single, consolidated hearing/trial.